

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

SIDNEY CHAPPEL NELSON

PLAINTIFF

v.

CIVIL ACTION NO. 5:20-cv-46-TBM-MTP

**UNIT MANAGER KAREN BROWN and
WARDEN SCOTT MIDDLEBROOKS**

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on submission of the [33] Report and Recommendation entered by United States Magistrate Judge Michael T. Parker on May 25, 2021. After considering the record and applicable law and having conducted a *Spears* hearing, Judge Parker recommends that the case should be dismissed for failure to state a claim and that the dismissal count as a strike pursuant to 28 U.S.C. § 1951(g). Plaintiff has not filed an objection to the Report and Recommendation, and the time for filing an objection has expired.

“When a party fails timely to file written objections to the magistrate judge’s proposed findings, conclusions, and recommendation, that party is barred from attacking on appeal the unobjected-to proposed findings and conclusions which the district court accepted, except for plain error.” *Casas v. Aduddell*, 404 F. App’x 879, 881 (5th Cir. 2010); *see also Thomas v. Arn*, 474 U.S. 140, 152, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985) (“There is no indication that Congress, in enacting § 636(b)(1)(C), intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Having considered Judge Parker’s Report and Recommendation, the Court finds that it is neither clearly erroneous nor contrary to law.

IT IS THEREFORE ORDERED AND ADJUDGED that the [33] Report and Recommendation entered by United States Magistrate Judge Michael T. Parker on May 25, 2021 is ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED AND ADJUDGED that Defendants' [26] Motion for Summary Judgment is GRANTED.

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff's [1] Complaint is DISMISSED WITH PREJUDICE for failure to state a claim upon which relief can be granted, and this dismissal for failure to state a claim counts as a STRIKE under 28 U.S.C. § 1915(g).

THIS, the 9th day of June, 2021.



TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE